

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5235-02
Bill No.: SCS for SB 1014
Subject: Crimes and Punishment; Sexual Offenses; Prisons and Jails; Counties; Courts;
Probation and Parole; Department of Corrections
Type: Original
Date: April 12, 2010

Bill Summary: The proposal modifies provisions relating to crime.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
General Revenue	More than \$100,000	More than \$9,000,000	More than \$13,500,000
Total Estimated Net Effect on General Revenue Fund	More than \$100,000	More than \$9,000,000	More than \$13,500,000

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Drug Court Resource*	\$0	\$0	\$0
County Corrections Stabilization*	\$0	\$0	\$0
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

*Offsetting Transfers in and Costs in FY 2013 of More than \$1,500,000, net to \$0.

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 11 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Total Estimated Net Effect on FTE	0	0	0

☒ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Local Government*	\$0	\$0	\$0

*Offsetting Revenues and Costs in FY 2013 of More than \$1,500,000, net to \$0.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Public Safety – Missouri State Highway Patrol, Missouri Senate, Office of the State Public Defender**, and the **Office of the State Treasurer** assume the proposal would have no fiscal impact on their agencies.

Officials from the **Department of Public Safety – Director’s Office** assume any costs associated with this proposal can be absorbed within existing resources.

Officials from the **Office of State Courts Administrator (CTS)** state the proposed legislation creates the “County Corrections Stabilization Fund.” The general assembly will appropriate one-half of any annualized savings from the implementation of the legislation to general revenue, one-sixth shall be appropriated to the Drug Court Resources Fund, one-sixth shall be appropriated to the Department of Corrections for any costs associated with community supervision, and one-sixth shall be appropriated to the “County Corrections Stabilization Fund.”

CTS anticipates significant savings for the Department of Corrections due to lower incarceration rates. CTS defers to the Department of Corrections for savings estimates.

CTS is unable, at this time, to estimate the additional revenues for the Drug Court Resources Fund.

Officials from the **Department of Corrections (DOC)** assume this proposal caps the amount of non-violent offenders sentenced to imprisonment in the DOC from each county to the maximum of 85%.

The intent of this legislation is to reduce prison population by 2,000 inmates and close a prison in the State of Missouri. This legislation places a “cap” on the number of non-violent offenders that counties can send to the DOC.

The DOC offender population increased throughout the past twelve months and increased by 108 offenders since January, 2010. DOC has already exceeded the operational capacity at male prisons and is using overflow (saturation) bed-space for male offenders. DOC projects that they will be completely out of all male saturation bed-space by May, 2012, and in need of a new male prison.

ASSUMPTION (continued)

It is important to note that the savings are dependent on an overall reduction in prison population. If prison population continues to rise due to other factors, the savings could be substantially less to minimal and would likely not result in the closing of a prison. The reduction in prison population could, however, be enough to prevent a new prison from being needed.

If the remaining offender population stopped growing, the best case scenario in FY11 would be a gradual reduction in prison population on a month to month basis. A prison could not be closed in FY11. In addition, the crimes resulting in incarceration that are not included in this legislation will continue to grow which will reduce the overall savings. Therefore, the savings in FY11 will be due to a reduced inmate population, resulting in savings of an unknown amount exceeding \$100,000.

In FY12, if the reduction in the prison population is such that a prison could be closed, it is unlikely the prison could be closed by the start of the fiscal year and would have to be closed at some point during FY12. Therefore, the savings could exceed \$5 to \$9 million to the DOC (depending on at one point during the year the prison could be closed and depending on the size of prison that is closed and on which prison is closed). Therefore, the savings in FY12 would be unknown exceeding \$5 to \$9 million.

In FY13, assuming a prison could be closed, the savings to the state would be unknown exceeding \$10 to \$18 million (again, this number is dependent on a number of variables, such as which prison would be closed and the size of the prison). If the net reduction in offenders is significantly less (such as 1,000) a smaller prison would have to be closed. Therefore, the closure of a prison could net a savings to the DOC (depending on the size of the prison) of unknown exceeding \$10 to \$18 million.

DOC notes that savings will be generated gradually in the first year and the savings amount to be appropriated to DOC, Drug Courts, and the "County Corrections Stabilization Fund" would not occur until FY13. The costs to Probation and Parole could potentially increase in the first year without an offsetting savings.

Officials from the **Clay County** state Department of Corrections gains by this bill. Counties lose whether they stay under their allotted number or go over it.

ASSUMPTION (continued)

Officials from the **St. Charles County** state there are an estimated 90 offenders from St. Charles County incarcerated for a nonviolent offense with the Missouri Department of Corrections. Under the provisions of the bill, that number would be reduced by 13.5 inmates. Based on the duty to uphold the laws of the state, regardless of a Department of Corrections quota, and utilizing the range of sentences set into law, St. Charles County would anticipate being forced to house these additional inmates in the county jail. Officials estimate the cost to house 13.5 inmates at \$68.00 per day to be \$335,070 per year.

Oversight assumes any annualized savings from one fiscal year will be appropriated to the specified funds the following fiscal year.

Officials from the Missouri House of Representatives, Office of Prosecution Services, Various Missouri Counties, Boone County Sheriff's Department, Buchanan County Sheriff's Department, Clark County Sheriff's Department, Jackson County Sheriff's Department, Platte County Sheriff's Department, and the St. Louis County Department of Justice Services did not respond to Oversight's request for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2011	FY 2012	FY 2013
GENERAL REVENUE FUND			
<u>Savings</u> – Department of Corrections			
Reduced inmate population	More than \$100,000	More than \$9,000,000	More than \$18,000,000
<u>Transfers out</u> – From General Revenue Fund			
To Drug Court Resource Fund	\$0	\$0	(More than \$1,500,000)
To County Corrections Stabilization Fund	\$0	\$0	(More than \$1,500,000)
<u>Costs</u> – Department of Corrections			
For community supervision	<u>\$0</u>	<u>\$0</u>	<u>(More than \$1,500,000)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>More than \$100,000</u>	<u>More than \$9,000,000</u>	<u>More than \$13,500,000</u>
DRUG COURT RESOURCE FUND			
<u>Transfers in</u> – From General Revenue Fund	\$0	\$0	More than \$1,500,000
<u>Costs</u> – Office of State Courts Administrator			
Drug court costs	<u>\$0</u>	<u>\$0</u>	<u>(More than \$1,500,000)</u>
ESTIMATED NET EFFECT ON DRUG COURT RESOURCE FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - State Government</u>	FY 2011	FY 2012	FY 2013
(continued)			

**COUNTY CORRECTIONS
 STABILIZATION FUND**

<u>Transfers in</u> – From General Revenue Fund	\$0	\$0	More than \$1,500,000
--	-----	-----	--------------------------

<u>Costs</u> – Department of Corrections To Counties	<u>\$0</u>	<u>\$0</u>	<u>(More than \$1,500,000)</u>
---	------------	------------	------------------------------------

ESTIMATED NET EFFECT ON COUNTY CORRECTIONS STABILIZATION FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
--	-------------------	-------------------	-------------------

<u>FISCAL IMPACT - Local Government</u>	FY 2011	FY 2012	FY 2013
---	---------	---------	---------

LOCAL GOVERNMENT

<u>Revenues</u> – Counties From County Corrections Stabilization Fund	\$0	\$0	More than \$1,500,000
---	-----	-----	--------------------------

<u>Costs</u> – Counties Probation services and housing	<u>\$0</u>	<u>\$0</u>	<u>(More than \$1,500,000)</u>
---	------------	------------	------------------------------------

ESTIMATED NET EFFECT ON LOCAL GOVERNMENT	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
---	-------------------	-------------------	-------------------

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

Currently, the crime of child molestation in the first degree is a class A felony if the person has previously committed a sexual offense under Chapter 566. Under this proposal, the penalty for such offense shall be the same when the person has committed a previous sexual offense in another jurisdiction equivalent to one under Chapter 566.

For the period of July 1, 2008, to June 30, 2009, the Department of Corrections shall determine from each county the average end of month population of persons committed from each county to the department for a nonviolent offense. Eighty-five percent of such number shall be the maximum number of persons from each county that shall be serving a sentence of imprisonment for a nonviolent offense with the department of corrections at any one time. The DOC shall calculate and provide such number to each county prior to August 28, 2010.

A county may choose to exceed the maximum number of commitments permitted if it reimburses the state for the cost of incarcerating each person committed that exceeds the maximum number permitted. As an alternative to reimbursing the state for incarceration of such person, the county may, at its own expense, incarcerate the person in a county or municipal jail. The county may make agreements with other counties to incarcerate such person.

The General Assembly shall appropriate any annualized savings generated from this act shall be appropriated as follows: 1) one-half shall revert to the general revenue fund; 2) one-sixth shall be appropriated to the Department of Corrections for community supervision costs, 3) one-sixth shall be appropriated to the drug court resource fund, and 4) one-sixth shall be appropriated to the "County Corrections Stabilization Fund," which is created under this act to be used by counties to fund the probation services and housing of inmates who would otherwise be incarcerated in the DOC.

The DOC shall administer the County Corrections Stabilization Fund and disburse the money to the counties that comply with the maximum number of permitted incarcerations with the department to reimburse actual costs of incarceration if: 1) the prisoner pleads guilty to or is found guilty of a state offense for which he or she is sentenced to the Department of Corrections but received credit for the time served in the county jail prior to sentencing; or 2) the prisoner is held in a county jail for a state offense on a sentence or portion of a sentence following a plea or finding of guilty or is incarcerated under section 559.026. Currently, these types of costs of incarceration are not reimbursed by the state to the counties under Section 221.105, but would be reimbursed under this act from the fund. If there are insufficient moneys in the fund, each county shall receive a pro rata share of the amount available. If additional moneys are available after reimbursement, each county shall receive a pro rata share based on the percentage of the total

FISCAL DESCRIPTION (continued)

number of nonviolent offenders who are reduced in the department because of this act for which each county is responsible. The money in the fund shall not revert back to the general revenue fund.

The DOC, on a monthly basis or upon request of a prosecutor, shall provide the prosecutor with a list of persons incarcerated in the DOC for nonviolent offenses from such county, including the risk assessment and parole release guidelines utilized by the board of probation and parole for each individual, the person's conditional and board release date, and the list of offenses committed by each person.

When a county has reached or is nearing its maximum number of permitted incarcerations, the prosecuting attorney may file a motion with the sentencing court recommending a specific person currently incarcerated by granted parole. The sentencing court shall have authority to hear the motion and make a recommendation. The motion must specify why the particular individual has been chosen for recommended release and how the space would be better utilized by incarcerating another person. Victims for which notification is mandatory or those who request notification shall receive notice of the motion from the court and shall be granted an opportunity to be heard by the court. The court shall make a recommendation to the board of probation and parole that such person be granted parole unless the court finds good cause that such person should remain incarcerated.

The Board of Probation and Parole shall make a decision granting or denying the parole of such person within 30 days of receiving the court's recommendation. No hearing shall be required prior to the board's decision. If the board decides to deny the recommended parole, the county shall be permitted to commit an additional person to the department without additional costs or penalty to the county.

The Board of Probation and Parole may select nonviolent offenders for early release upon their admission to a drug, DWI, or treatment court upon agreement with the drug court commissioner or judge. Any such offender shall be subject to the jurisdiction of such court as of if original probation.

The provisions in Sections 217.023 and 559.015 shall expire August 28, 2013, except that savings resulting from implementation of this section during the year ending August 28, 2013, shall be calculated and distributed after such date.

This act contains an emergency clause for Sections 217.023 and 559.015, and these sections shall be in full force and effect upon passage and approval.

FISCAL DESCRIPTION (continued)

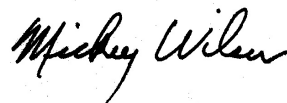
This legislation is not federally mandated, would not duplicate any other program, and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of State Courts Administrator
Department of Corrections
Department of Public Safety
 – Missouri State Highway Patrol
 – Director's Office
Missouri Senate
Office of the State Public Defender
Office of the State Treasurer
St. Charles County
Clay County

NOT RESPONDING

Missouri House of Representatives
Office of Prosecution Services
Various Missouri Counties
Boone County Sheriff's Department
Buchanan County Sheriff's Department
Clark County Sheriff's Department
Jackson County Sheriff's Department
Platte County Sheriff's Department
St. Louis County Department of Justice Services



L.R. No. 5235-02
Bill No. SCS for SB 1014
Page 11 of 11
April 12, 2010

Mickey Wilson, CPA
Director
April 12, 2010

BLG:LR:OD (12/02)